

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10cv34

CRUZ CARRASCO,)	
Petitioner,)	
)	
v.)	
)	
ERIC FARRAR, ASSITANT FIELD)	
OFFICE DIRECTOR FOR INTERIOR)	<u>ORDER</u>
ENFORCEMENT, I.C.E.; JANET)	
NAPOLITANO, SECRETARY, DHS;)	
ERIC HOLDER, U.S. ATTORNEY)	
GENERAL; and THE UNITED STATES)	
OF AMERICA,)	
Respondents.)	
)	

THIS MATTER is before the court on Petitioner's Writ for Habeas Corpus and Complaint for Declaratory and Injunctive Relief (Document #1) and Petitioner's Motion for Preliminary Injunction (Document #2), both filed January 27, 2010. The Government has not filed a response. However, these matters are ripe for disposition.

After filing the motions now before the Court, Petitioner also filed a Motion for Temporary Restraining Order (Doc. 3), which was denied by this Court in a written Order dated January 28, 2010. The background facts of this case are presented in detail in that Order and will not be repeated here.

For purposes of the instant motion, the Court notes that the facts and legal arguments advanced in support of the Motion for Preliminary Injunction are identical to those made in Petitioner's Motion for Temporary Restraining Order. In particular, Petitioner argued in each instance that he was being detained in violation of 8 U.S.C. § 1226, 8 C.F.R 1003.19, and the Due Process Clause of the United States Constitution. Petitioner further argued that if the requested

restraining order or injunctive relief was denied, Petitioner would be removed to another district outside the jurisdiction of this court. After the Court declined to issue a temporary restraining order, Petitioner's counsel informed the Court that Petitioner had in fact been taken out of this district. For this reason, Petitioner's Motion for Preliminary Injunction is now moot, and the Petition for Writ of Habeas Corpus must be denied as outside the scope of this Court's jurisdiction.

Furthermore, even if Petitioner was presently in this district, the Court would deny his request for a Writ of Habeas Corpus as unwarranted given the legal analysis of 8 U.S.C. § 1226, 8 C.F.R. § 1003.19, and the Due Process Clause presented in the Court's earlier Order denying Petitioner's Motion for a Temporary Restraining Order. For the same reasons stated in that Order, the Court finds that Petitioner's habeas claim lacks merit.

WHEREFORE, for the foregoing reasons, **IT IS HEREBY ORDERED** that Petitioner's Motion for Preliminary Injunction and Petition for Writ of Habeas Corpus are **DENIED**.

Signed: September 3, 2010



Richard L. Voorhees
United States District Judge

